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10/590,123	08/18/2006	Horst Guggemos	080644-000000US	4063

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TOWNSEND AND TOWNSEND AND CREW, LLP  
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EXAMINER
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FIORELLO, BENJAMIN F

ART UNIT	PAPER NUMBER
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3672

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07/09/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/590,123	<b>Applicant(s)</b> GUGGEMOS, HORST	
	<b>Examiner</b> BENJAMIN FIORELLO	<b>Art Unit</b> 3672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5,7-13,15-19 and 21-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-13,15-19 and 21-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 April 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Drawings***

1. The amended drawings filed on 04/09/2009 are accepted and overcome the prior objection.

### ***Claim Objections***

2. Claim 24 is objected to because of the following informalities: Line 2 states "are" which should state "is". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The amendment filed on 04/09/2009 is accepted and overcome the prior rejection.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 7-13, 15, 17, 23 and 27-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7-13, 15, and 17 are in improper form because the claims depend upon a cancelled claim and it is unclear as to what applicant is intending to claim as their invention. See MPEP § 608.01(n). Accordingly, the claims 7-13, 15, and 17 have not been further treated on the merits.

Claim 23 recites, in line 3, "of the same dimensions". It is unclear as to what dimensions applicant is referring to.

Claims 27-28 recites "central angle". This angle has not been clearly defined and it is unclear as to what applicant is intending to claim.

Claim 27 recites the limitation "the central angle" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-5, 16, 18-19, and 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamiyama et al. (2003/0136455) in view of Juvrud (4,070,866).

With regard to claim 1, Kamiyama discloses an annular segment (1) comprising:  
a plastic material (para. 005, last two lines) for building a channel, tubular shaft or pipeline including,

sides (fig. 3, sides 1A) having flange surfaces (fig. 3, elements on the end of side 1A) which extend radially outwardly (fig. 3), the annular segment being connectable in a watertight manner (see para 0069, where the unit is sealed) to form an annular element (see fig. 22, where multiple segments 1 form an element),

wherein longitudinal ribs (fig. 3, ribs 1D) are provided on an outer surface of the segment (1) between the flange surfaces (fig. 3) and which are parallel to a central axis (see fig. 3) of the annular segment, wherein at least two adjacent longitudinal ribs extend in parallel direction from the outer surface of the annular segment (see fig. 3, where all the ribs extend parallel to one another).

Kamiyama fails to explicitly state the flange surfaces are connectable in a watertight manner at the flange surfaces.

Juvrud discloses annular segments contain flanges (14, 15) (fig. 1) connectable in a water tight manner (col. 1, lines 31-32).

It would have been obvious to one of ordinary skill at the time of the invention to modify Kamiyama and connect the flanges member of the segments together to form an element in provide a watertight pipeline channel.

With regard to claim 2, Kamiyama discloses the lateral surfaces of at least two side-by-side longitudinal ribs (1D) which have an essentially rectangular cross section (fig. 3) are aligned in parallel (fig. 3), whereby the surface of the longitudinal ribs facing the annular segment are adapted to the curvature of the outer surface (fig. 3).

With regard to claim 3, Kamiyama discloses at least one longitudinal rib (1D) has a radial direction of projection (fig. 3).

With regard to claim 4, Kamiyama discloses the longitudinal ribs (1D) are arranged at regular distances from one another (fig. 3).

With regard to claim 5, Kamiyama discloses traverse ribs (figs 2-3, transverse ribs 1C) which are aligned in a peripheral direction (fig. 2) and extend parallel to one another (fig. 2) crossing the longitudinal ribs (figs. 2-3) are continuous (fig. 2) and provided on the outer surfaces (fig. 3).

With regard to claim 16, Kamiyama, as modified, discloses the device substantially as claimed except for recess in the flanged surfaces for fastening means.

Juvrud discloses recesses (fig 2, recesses 16) for fastening means are provided in the flanges surface (15).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kamiyama to include recesses in the flanges in order to secure the segments together.

With regard to claim 18, Kamiyama discloses the longitudinal ribs (1D) are continuous (figs. 2-3).

With regard to claim 19, Kamiyama the segment is a one-piece shape (para 0049, figs 2-3).

With regard to claim 21, Kamiyama, as modified, discloses the invention substantially as claimed except for a groove and seal arrangement.

Juvrud discloses at least one groove is made in the surface for accommodating seals (18) with which adjacent flange surfaces can be sealed (fig. 5, col. 2, lines 19-24).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Kamiyama and include the seal arrangement as disclosed by Juvrud in order to seal the element.

With regard to claim 22, Kamiyama discloses an annular element (figs. 22, 24) constructed of segments (1) according to claim 1.

With regard to claim 23, Kamiyama discloses the annular element is assembled in a watertight manner from several annular segments (fig. 22) of the same dimension (fig. 22).

With regard to claim 24, Kamiyama discloses the annular element is surround, at least partially, on the outside by a concrete layer (35, fig. 22, para. 0082).

With regard to claim 25, Kamiyama discloses a pipe cased shaft constructed of the annular elements of claim 22 (fig. 24).

With regard to claim 26, Kamiyama discloses each longitudinal rib extends from the same side of the outer surface (fig. 3).

With regard to claim 27, as best understood, Kamiyama discloses the central angle is less than 180 degrees (see fig. 3, wherein the angle between flanges is less than 180).

With regard to claim 28, as best understood, Kamiyama in view of Juvrud discloses the invention substantially as claimed however fails to explicitly state a central angle of the segment is 120 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to a central angle of 120 degrees, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With regard to claim 29, Kamiyama discloses the flange surfaces do not extend in parallel directions (see fig. 3, wherein if the flanges were extended they would intersect).

### ***Response to Arguments***

8. Applicant's arguments with respect to claims 1-5, 7-13, 15-19, 21-29 have been considered but are moot in view of the new ground(s) of rejection.



The Examiner notes that although the limitations of claims 6 and 14 were incorporated into claim 1 and originally rejected under 35 USC 102(b) as being anticipated by Timmons '813, the Applicant further included the limitation of the longitudinal ribs beings provided or formed on an outer surface of the annular segment *between the flange surfaces*, thus prompting the new rejection.

### **Conclusion**

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to BENJAMIN FIORELLO whose telephone number is

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(571)270-7012. The examiner can normally be reached on Monday to Thursday from 7:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bagnell can be reached on (571)272-6999. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/TARA MAYO-PINNOCK/  
Primary Examiner, Art Unit 3671

BF  
07/02/2009